

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Malcolm Tom McKECHNIE et al.

Int'l No. : PCT/GB97/03317

Serial No. : 09/423,399

Filed : December 3, 1997

Title : METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER PARTICLES FROM A MATERIAL

Box: PCT

Commissioner for Patents

Washington, D.C. 20231

PETITION TO REVIVE

Pursuant to 37 C.F.R. § 1.137(a), Applicants respectfully request that this application be revived. Its abandonment was unavoidable. The reasons for this Petition are as follows:

1. On 28 March 2000, the Patent and Trademark Office notified the undersigned attorney that an application bearing a Serial No. 09/308,860 was abandoned for failure to respond to a Notice of Missing Requirements mailed on 17 June 1999. A copy of the Notification of Abandonment is enclosed as Exhibit A. The Serial No. 09/308,860 is apparently a wrong number. All of the other information (which, unfortunately, is out of register on the form) is correct. The first-named applicant is McKechnie. Our attorney docket No. is 08291/600001. The PCT International application number is PCT/GB97/03317. And the first priority date is 4 December 1996.

2. A Form PTO 1390 for entering into the United States National Phase was sent to the Patent and Trademark Office by Express Mail on 26 May 1999. It was

CERTIFICATE OF MAILING BY EXPRESS MAIL

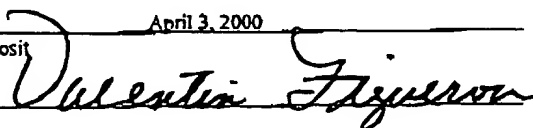
Express Mail Label No. EE647185799US

I hereby certify under 37 CFR §1.10 that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee with sufficient postage on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

April 3, 2000

Signature

Valentin Figueroa

Typed or Printed Name of Person Signing Certificate

Applicant : Malcolm Tom M...ECHNIE et al.
Serial No. : 09/423,399
Filed : December 3, 1997
Page : 2

Attorney's Docket No.: 08291-600001

accompanied by a postcard, but the postcard was never returned. A copy of the form is enclosed as Exhibit B.

3. On 3 November 1999, Applicants filed a Status Request. A copy of this Status Request, together with its accompanying documentation is enclosed as Exhibit C. The documentation includes a copy of a return-receipt postcard stamped with the Serial No. 09/423,399. This is the serial number which we are using in this Petition.

4. The Notification of Abandonment referred to a Notification of Missing Requirements mailed on 17 June 1999. No Notification of Missing Requirements was ever received in this office. A copy of our docket records for the period 17 June 1999 through 6 July 1999 is attached hereto as Exhibit D. These records are entered by the Fish & Richardson docket number which, for this application, is 08291/600001. As can be seen, there is no entry under this number showing receipt of anything from the PTO.

5. Furthermore, we have no record of handling any application bearing the Serial No. 09/308,860.

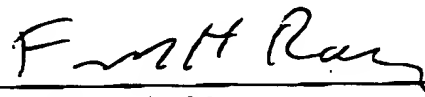
It appears that there has been a misassignment of serial numbers in the Patent and Trademark Office and that, as a result, this application has become abandoned. Under the circumstances, the abandonment is, from Applicants' standpoint, unavoidable.

A check in the amount of \$110.00 as required by 37 C.F.R. § 1.17(d)(1) is here enclosed.

In connection with fees for this application, Applicants were wrongfully charged amounts of \$234, \$216 and \$970 - totaling \$1,420. A Request for Refund was filed on 3 January 2000.

Respectfully submitted,

Date: 3 April 00


Frederick H. Rabin
Reg. No. 24,488

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291
30013936.d c

A

09/308860



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
BOX PCT
Washington, D.C. 20231

US APPLICATION NO. 850	INVENTOR MICHAEL J. FISH	ATTY. DOCKET NO. 00001/608801
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FREDERICK H RABIN
FISH & RICHARDSON
45 ROCKEFELLER PLAZA
SUITE 2800
NEW YORK NY 10111

5071

RECEIVED

MAR 31 2000

FISH & RICHARDSON, P.C.
NEW YORK CITY OFFICE

PCT/608801/017
INTERNATIONAL APPLICATION NO.

I.A. FILING DATE 3/31 PRIORITY DATE 3/31/96

03/28/00

DATE MAILED:

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as

☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has made the following determination:

- ☐ Applicant's letter of express abandonment received _____ is in compliance with 37 CFR 1.138 and is hereby acknowledged.
- ☐ Applicant has failed to provide the full U. S. Basic National Fee by ☐ 20 months (37 CFR 1.494 (b)(2)), ☐ 30 months (37 CFR 1.495 (b)(2)).
- ☒ Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 06-19-99 within the time period set therein.
- ☐ Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed _____ within the time period set therein. See the attached NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916).
- ☐ Other:

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR

☐ 1.494, ☒ 1.495 and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

John Richardson
Telephone: (703) 308-9116

B

SUBSTITUTE FORM PTO-1390 TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE ATTORNEY'S DOCKET NUMBER 08291/600001 U.S. APPLICATION NO (IF KNOWN)
INTERNATIONAL APPLICATION NO. PCT/GB97/03317	INTERNATIONAL FILING DATE 03 December 1997	PRIORITY DATE CLAIMED 04 December 1996
TITLE OF INVENTION METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER PARTICLES FROM A MATERIAL		
APPLICANT(S) FOR DO/EO/US McKECHNIE, Malcolm Tom; GAYNOR, Paul Terence; HUGHES, John Farrell; and SWINGLER, Jonathan		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1). 4. <input checked="" type="checkbox"/> A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date. 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) a. <input type="checkbox"/> is transmitted herewith (required only if not transmitted by the International Bureau). b. <input checked="" type="checkbox"/> has been transmitted by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> A translation of the International Application into English (35 U.S.C. 371(c)(2)). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) a. <input type="checkbox"/> are transmitted herewith (required only if not transmitted by the International Bureau). b. <input type="checkbox"/> have been transmitted by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input checked="" type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> A translation of amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)) (UNSIGNED) 10. <input type="checkbox"/> A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). Items 11. to 16. below concern other documents or information included: 11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input checked="" type="checkbox"/> A FIRST preliminary amendment. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 14. <input type="checkbox"/> A substitute specification. 15. <input type="checkbox"/> A change of power of attorney and/or address letter. 16. <input checked="" type="checkbox"/> Other items or information: 1) PCT - International Preliminary Examination Report (dated) 13 October 1998		

"EXPRESS MAIL" Mailing Label Number E647293841

Date of Deposit May 26, 1999

I hereby certify under 37 CFR 2.10 that this correspondence is being deposited with the United States Postal Service as "Express Mail Post Office To Addressee" with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Francis Reble
Francis Reble

U.S. APPLICATION NO. (IF KNOWN)		INTERNATIONAL APPLICATION NO. PCT/GB97/03317		ATTORNEY'S DOCKET NUMBER 08291/600001	
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17. The following fees are submitted: Basic National Fee (37 CFR 1.492(a)(1)-(5)): Search report has been prepared by the EPO or JPO \$ 840 International preliminary examination fee paid to USPTO (37 CFR 1.482)..... \$ 670 No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2))..... \$ 760 Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO..... \$ 970 International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2) to (4)..... \$ 96 <div style="text-align: right;">ENTER APPROPRIATE BASIC FEE AMOUNT</div>				CALCULATIONS	PTO USE ONLY

Surcharge of \$130 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 mos from the earliest claimed priority date (37 CFR 1.492(e)).				\$ 00.00	
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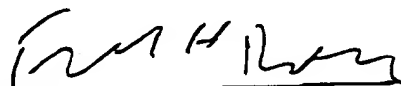
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
TOTAL CLAIMS	32 - 20	12	x \$ 18	\$ 216.00	
INDEPENDENT CLAIMS	6 - 3	3	x \$ 78	\$ 234.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$260	\$ 0.00	
TOTAL OF ABOVE CALCULATIONS				\$1,420.00	
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28.)				\$ 0.00	
SUBTOTAL				\$1,420.00	
Processing fee of \$130 for furnishing the English Translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 mos. from the earliest claimed priority date (37 CFR 1.492(f))				\$ 0.00	
TOTAL NATIONAL FEE				\$1,420.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31).				\$ 0.00	
TOTAL FEES ENCLOSED				\$1,420.00	
				Amount to be refunded	
				Charged	

a. ☒ A check in the amount of \$1,420.00 to cover the above fees is enclosed.
b. ☐ Please charge my Deposit Account No. 06-1050 in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.
c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 06-1050. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

FREDERICK H. RABIN
FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK, NEW YORK 10111


 SIGNATURE
 Frederick H. Rabin
 NAME
 26,488
 REGISTRATION NUMBER

C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Malcolm Tom McKECHNIE et al. Art Unit :

Serial No. : PCT/GB97/03317 Examiner :

Filed : December 3, 1997

Title : METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER
PARTICLES FROM A MATERIAL

BOX: PCT

Assistant Commissioner for Patents
Washington, D.C. 20231STATUS REQUEST

On 26 May 1999, Applicants sent to the Patent and Trademark Office a Form PTO-1390 for the purpose of entering into the United States National Phase of the above-noted PCT application.

Enclosed are copies of the Form PTO-1390, Express Mail Receipt No. EE647279394US, the back of a return-receipt postcard referencing the same Express Mail number and a copy of a check in the amount of \$1,420.

To date, Applicants have not received the return-receipt postcard, or anything else acknowledging receipt of these papers.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

November 3, 1999

Date of Deposit

Signature

Cynthia M. Berene

Typed or Printed Name of Person Signing Certificate


Applicant : Malcolm Tom ROCKECHNIE et al.
Serial No. : PCT/GB97/03317
Filed : December 3, 1997
Page : 2

Attorney's Docket No.: 08291-600001

Applicants hereby inquire into the status of this application.

Respectfully submitted,

Date: 3 Nov 99


Frederick H. Rabin
Reg. No. 24,488

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30001565.doc

SUBSTITUTE FORM PTO-1390

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

08291/600001

TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371

U.S. APPLICATION NO (IF KNOWN)

INTERNATIONAL APPLICATION NO.
PCT/GB97/03317INTERNATIONAL FILING DATE
03 December 1997PRIORITY DATE CLAIMED
04 December 1996TITLE OF INVENTION
METHOD FOR CONTROLLING AND REMOVING DUST AND OTHER PARTICLES FROM A MATERIALAPPLICANT(S) FOR DO/EO/US
McKECHNIE, Malcolm Tom; GAYNOR, Paul Terence; HUGHES, John Farrell; and
SWINGLER, Jonathan

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

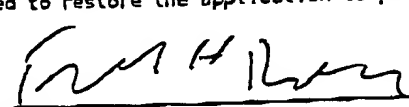
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 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
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☐ A SECOND or SUBSEQUENT preliminary amendment.
 14. ☐ A substitute specification.
 15. ☐ A change of power of attorney and/or address letter.
 16. ☒ Other items or information:

- 1) PCT - International Preliminary Examination Report (dated)
13 October 1998

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Date of Deposit May 26, 1999
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Francisco Reble
 Francisco Reble

U.S. APPLICATION NO. (IF KNOWN)		INTERNATIONAL APPLICATION NO. PCT/GB97/03317		ATTORNEY'S DOCKET NUMBER 08291/600001	
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Surcharge of \$130 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 mos from the earliest claimed priority date (37 CFR 1.492(e)).				\$ 00.00	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
TOTAL CLAIMS	32 - 20	12	x \$ 18	\$ 216.00	
INDEPENDENT CLAIMS	6 - 3	3	x \$ 78	\$ 234.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$260	\$ 0.00	
TOTAL OF ABOVE CALCULATIONS				\$1,420.00	
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28.)				\$ 0.00	
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NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b) must be filed and granted to restore the application to pending status.					
SEND ALL CORRESPONDENCE TO:					
FREDERICK H. RABIN FISH & RICHARDSON P.C. 45 ROCKEFELLER PLAZA, SUITE 2800 NEW YORK, NEW YORK 10111					
SIGNATURE  Frederick H. Rabin NAME					
24,488 REGISTRATION NUMBER					



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PO ZIP Code 10001	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In Mo. Day Year 6/21/97	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 1.50
Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
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No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials 70	Total Postage & Fees \$

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FROM: (PLEASE PRINT)

PHONE ()

Frederick H. Rabkin, Esq.
Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, New York 10111

L 08291/606001

TO: (PLEASE PRINT)

PHONE ()

FOR: POI
Assistant Commissioner for Patents
Washington, D.C. 20231

FOR PICKUP OR TRACKING CALL 1-800-222-1811 WWW.USPS.GOV



Label 11-B July 1997

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant: Malcolm Tom McKECHNIE et al

Serial No.: PCT/GB97/03317

Filed: December 3, 1997

For: Method for Controlling and Removing Dust...

☐ Request

☐ Specs.; Claims; Abstract

☐ Drawings

☐ Check in the Amount of \$

☐ Transmittal Letter

☐ Fee Calculation Sheet

☐ Response to Invitation

☐ Chapter II Demand

☒ Other Status Request w/ attachments

Client: 08291-160001

Initials: FNR-emb

11-3-99 - Date

520 Rec'd PCT/PTO 09 NOV 1999

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant: Malcolm Tom McKECHNIE et al
Serial No.: PCT/GB97/03317
Filed: December 3, 1997
For: Method for Controlling and Removing Dust...
Request _____
Specs.: Claims, Abstract _____
Drawings _____ **09/423399**
Check in the Amount of \$ _____
Transmittal Letter _____
Fee Calculation Sheet _____
Response to Invitation _____
Chapter II Demand _____
☒ Other Status Request w/ attachments
Client: 08291-100001

Initials: FHR-cmb11-3-99 - Date

D

213207.B11

PRACTICE SYSTEMS USPTO MAIL LOG

#	Date Received	Client / Matter Number	Action / Comments	Base Date/ Due Date
1.	6/17/99	07653/019001	assignment	
2.		08291/571001	assignment	
3.		09918/025001	assignment	
4.		07653/028001	assignment	
5.		07806/145001	missing parts	
6.		07703/227001	issue fee	
7.		07806/128001	issue notification	
8.		10249/004001	OFR	
9.				
10.	6/18/99	07806/07001	issue notification	
11.		08846/055002	violation copy	
12.		10518/002001	OFR	
13.	6/21/99	09189/038001	appln	
14.		07728/032001	OFR	
15.		09914/013001	corr OFR	
16.		07703/036001	OFR + missing parts	
17.		08774/133002	soft copies	
18.		08291/464001	soft copies	
19.		08291/601001	appln	
20.				
21.	6/22/99	07703/074001	abandon case	
22.		10266/002001	instr. to file PCT	
23.		07806/133001	issue fee	
24.		09914/002001	issue fee	
25.		07967/023001	office action	

213207.B11

PRACTICE SYSTEMS USPTO MAIL LOG

#	Date Received	Client / Matter Number	Action / Comments	Base Date/ Due Date
1.	6/22/99	09189/019001	assignment	
2.		09918/029001	assignment	
3.		09155/004001	assignment	
4.		09189/020001	assignment	
5.		07967/040001	OFR	
6.		09914/015001	OFR	
7.				
8.	6/23/99	09914/007001	office action	
9.				
10.	6/24/99	09918/033001	assignment	
11.		09918/032001	assignment	
12.		09189/002001	assignment	
13.		09189/025001	assignment	
14.				
15.	6/25/99	08291/007001	file patent appln	
16.		07703/098001	issue notification	
17.		07703/256001	issue notification	
18.		07806/122001	issue notification	
19.		07806/146001	missing parts	
20.		07806/070001	vision copy	
21.		07806/128001	vision copy	
22.		07806/143001	pr. doc. + translation	
23.		07703/221002	office action	
24.		09520/011001	OFR	
25.		07967/040001	corr. OFR	

7.B11

PRACTICE SYSTEMS USPTO MAIL LOG

#	Date Received	Client / Matter Number	Action / Comments	Base Date/ Due Date
1.	6/25/99	08291/299001	issue notification	
2.	(cont.)	09196/006001	resp. to OA	
3.				
4.	6/28/99	08846/056001	advisory action	6/21/99
5.		09189/039001	file appen	6/26/99
6.		07806/143001	assignment	
7.		10618/003001	office action	6/23/99
8.		07967/025001	office action	6/23/99
9.		08291/309001	office action	6/21/99
10.		07719/012001	abandoned	6/27/99
11.		09918/043001	assignment	
12.		07967/022001	assignment	
13.		10115/006001	OFR	
14.		10115/006001	missing parts	6/23/99
15.		07653/020002	OFR	
16.		08552/003001	instr. to abandon	
17.	6/29/99	09619/012001	corr. OFR	
18.		09819/024001	assignment	
19.		07703/283001	assignment	
20.		09154/005001	missing parts notice	
21.		10115/003001	OA	6/22/99
22.		07985/019001	OA	6/22/99
23.		08846/055002	soft copies	
24.		07807/116001	advisory action	6/28/99
25.				

PRACTICE SYSTEMS USPTO MAIL LOG

#	Date Received	Client / Matter Number	Action / Comments	Base Date/ Due Date
1.	6/30/99	10502/002001	refs: for IDS	
2.		07719/011001	instr. for OA	
3.		07763/044001	OFR	
4.				
5.	7/1/99	07807/002001	instr. to pay IF	
6.		10511/007001	OFR	
7.		07806/146001	OFR	
8.		07967/045001	response to OA	
9.				
10.	7/2/99	07728/005001	opposition remarks	
11.		09546/007001	assignment	
12.		08291/597001	notice of acceptance	
13.		07806/122001	ribbon copy	
14.		07703/256001	ribbon copy	
15.		07703/098002	issue notification	
16.				
17.	7/6/99	09989/002001	issue fee	
18.		07962/008001	cert. of correction	
19.		07769/019001	payment L&M fee	
20.		07703/098001	ribbon copy	
21.		08291/299001	ribbon copy	
22.		07807/015001	decision on appeal	
23.		08774/139002	notice of abandonment	
24.		10660/032001	acceptance of POA	
25.		09189/020001	corr. OFR	